



# Department of Justice

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## **KOREAN COMPANY--HYNIX--AGREES TO PLEAD GUILTY TO PRICE FIXING AND AGREES TO PAY \$185 MILLION FINE FOR ROLE IN DRAM CONSPIRACY**

### *Company Pays Third Largest Antitrust Criminal Fine in History*

WASHINGTON, D.C. – Hynix Semiconductor Inc., a Korean manufacturer of dynamic random access memory (DRAM), has agreed to plead guilty and to pay a \$185 million fine for participating in an international conspiracy to fix prices in the multi-billion dollar DRAM market, the Department of Justice today announced. Hynix's fine is the third-largest criminal antitrust fine in U.S. history and the largest in five years.

Including today's charge, two companies and five individuals have been charged and fines totaling more than \$346 million have resulted from the Department's ongoing antitrust investigation into price fixing in the DRAM industry.

DRAM is the most commonly used semiconductor memory product, providing high-speed storage and retrieval of electronic information for a wide variety of computer, telecommunication, and consumer electronic products. DRAM is used in personal computers, laptops, workstations, servers, printers, hard disk drives, personal digital assistants, modems, mobile phones, telecommunication hubs and routers, digital cameras, video recorders, televisions, game consoles, and digital music players. There were approximately \$7.7 billion in DRAM sales in the United States in 2004.

"Price fixing imperils free markets, impairs innovation, and harms American consumers," said Attorney General Alberto R. Gonzales. "Today's charge and its resulting guilty plea are

another significant step forward in the Department's ongoing fight to break up and prosecute international cartels that harm American consumers. This case shows that high-tech price-fixing cartels will not be tolerated."

According to the one-count felony charge filed today in the U.S. District Court in San Francisco, from April 1, 1999 to June 15, 2002, Hynix conspired to fix the prices of DRAM sold to certain computer and server manufacturers. The customers directly affected by the price-fixing conspiracy were: Dell Inc., Compaq Computer Corporation, Hewlett-Packard Company, Apple Computer Inc., International Business Machines Corporation, and Gateway Inc.

"This case illustrates the international scope of our criminal investigations and underscores the importance of looking beyond our nation's borders to prosecute and deter cartels that harm American consumers," said R. Hewitt Pate, Assistant Attorney General in charge of the Department's Antitrust Division.

Hynix is charged with carrying out the conspiracy by:

- Participating in meetings, conversations, and communications in the United States and elsewhere to discuss the prices of DRAM to be sold to certain customers;
- Agreeing, during those meetings, conversations, and communications, to charge prices of DRAM at certain levels to be sold to certain customers;
- Issuing price quotations in accordance with the agreements reached; and
- Exchanging information on sales of DRAM to certain customers, for the purpose of monitoring and enforcing adherence to the agreed-upon prices.

Under the plea agreement which must be approved by the court, Hynix has agreed to cooperate with the government in its ongoing investigation of other DRAM producers. Today's fine is also subject to court approval.

“We expect that Hynix’s cooperation will provide valuable assistance in our continuing investigation,” said Scott D. Hammond, the Antitrust Division’s Deputy Assistant Attorney General for Criminal Enforcement.

Hynix is charged with violating Section 1 of the Sherman Act, which carries a maximum fine of \$10 million for corporations and a maximum penalty of three years imprisonment and a \$350,000 fine for individuals for violations occurring before June 22, 2004. The maximum statutory fine may be increased to twice the gain the conspirators derived from the crime or twice the loss suffered by the victims of the crime, if either of those amounts is greater than the statutory maximum fine.

Hynix is the second major semiconductor company, after the German manufacturer Infineon Technologies AG (Infineon), to agree to plead guilty to fixing DRAM prices. In October 2004, German manufacturer Infineon pleaded guilty and was sentenced to pay a \$160 million criminal fine.

In December 2004, four Infineon executives, T. Rudd Corwin, Peter Schaefer, Gunter Hefner, and Heinrich Florian, pleaded guilty to the DRAM price-fixing conspiracy. The Infineon employees are serving jail terms of between four and six months and each has paid a fine of \$250,000. Three of the incarcerated Infineon employees are German citizens.

In December 2003, the Department charged Alfred P. Censullo, a Regional Sales Manager for Micron Technology Inc., with obstruction of justice. Censullo pleaded guilty to the charge and admitted to having withheld and altered documents responsive to a grand jury subpoena served on Micron in June 2002. Censullo was sentenced to serve six months of home detention.

Today's charge is the result of an ongoing investigation being conducted by the Antitrust Division's San Francisco Field Office and the Federal Bureau of Investigation in San Francisco.

Anyone with information concerning price-fixing in the DRAM industry should contact the San Francisco Field Office of the Antitrust Division at (415) 436-6660 or the San Francisco Division of the FBI at (415) 553-7400.

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